

this section does not apply to reportable interest or dividend payments (as defined in section 3406(b)(2)) made—

(1) With respect to a pre-1984 account (as defined in § 31.3406(d)-1(b)(1));

(2) In a window transaction (as defined in § 31.3406(b)(2)-3(b));

(3) With respect to a readily tradable instrument described in § 31.3406(d)-1(b)(2)(iv) or § 31.3406(d)-4(a)(3); or

(4) During the period and with respect to an account or readily tradable instrument described in § 31.3406(d)-3.

[T.D. 8637, 60 FR 66125, Dec. 21, 1995]

§ 31.3406(d)-3 Special 30-day rules for certain reportable payments.

(a) *Accounts or readily tradable instruments acquired directly from the payor (including a broker who holds an instrument in street name) by electronic transmission or by mail.* In the case of an account established directly with, or a readily tradable instrument acquired directly from, the payor by means of electronic transmission (i.e., telephone or wire instruction) or by mail, the payor may permit the payee to furnish the certifications required in § 31.3406(d)-1(b)(3) (relating to certification that the payee's taxpayer identification number is correct) and § 31.3406(d)-2 (relating to certification of notified payee underreporting) within 30 days after the establishment or acquisition without subjecting the account to withholding during the 30 days. The preceding sentence applies only if the payee furnishes a taxpayer identification number to the payor at the time of the establishment or acquisition, and the payee does not withdraw more than 69 percent of a reportable interest or dividend payment before the certifications are received within the 30 days. If the payee does not provide the required certifications within 30 days of the establishment or acquisition, the payor must withhold 31 percent of any reportable interest or dividend payments made to the account after its acquisition. For purposes of this section, an account or instrument is considered acquired directly from the payor if the instrument was acquired by the payee without the assistance of a broker or the instrument was acquired directly from a broker who holds the instrument as

nominee for the payee (i.e., in street name) and who is considered a payor under § 31.3406(a)-2. For payments made after December 31, 1998, see § 1.6049-5(d)(2)(ii) of this chapter for the application of a 90-day grace period in lieu of the 30-day grace period described in this paragraph (a) if, at the beginning of the 90-day grace period, certain conditions are satisfied. If the grace period provisions of § 1.6049-5(d)(2)(ii) or § 1.1441-1(b)(3)(iv) of this chapter are applied with respect to a new account, the grace period provisions of this paragraph (a) shall not apply to that account.

(b) *Sale of an instrument for a customer by electronic transmission or by mail.* The special rules set forth in paragraph (a) of this section apply comparably with respect to certification of the taxpayer identification number for the sale of an instrument under section 6045 (as described in § 31.3406(b)(3)-2) through a post-1983 brokerage account (as described in § 31.3406(d)-1(c)(2)) for a customer by electronic transmission or by mail. However, the 30-day rules may apply only if the payee furnishes the payee's taxpayer identification number before the sale occurs. For purposes of applying the 30-day rules under this paragraph (b), a payee's reinvestment of the gross proceeds of the sale into other instruments constitutes a withdrawal.

(c) *Application to foreign payees.* The rules of paragraphs (a) and (b) of this section also apply to a payee from whom the payor is required to obtain a Form W-8 (or an acceptable substitute) or other evidence of foreign status (pursuant to relevant regulations under an applicable Internal Revenue Code section without regard to the requirement to furnish a taxpayer identifying number, and the certifications described in §§ 31.3406(d)-1(b)(3) and 31.3406(d)-2), provided the payee represents orally or otherwise, before or at the time of the acquisition or sale of the instrument or the establishment of the account, that the payee is not a United States citizen or resident. The 30-day rules described in paragraph (a) or (b) of this section may apply only if the payee does not qualify for, or the payor does not apply, the 90-day grace

§ 31.3406(d)-4

26 CFR Ch. I (4-1-04 Edition)

period described in § 1.6049-5(d)(2)(ii) or § 1.1441-1(b)(3)(iv) of this chapter.

[T.D. 8637, 60 FR 66125, Dec. 21, 1995, as amended by T.D. 8734, 62 FR 53493, Oct. 14, 1997]

§ 31.3406(d)-4 Special rules for readily tradable instruments acquired through a broker.

(a) *Readily tradable instruments acquired through post-1983 brokerage accounts with a broker who is not a payor—*

(1) *In general.* If a readily tradable instrument is acquired through a post-1983 brokerage account (as defined in § 31.3406(d)-1(c)(2)) and the broker is not a broker holding a security (including stock) for a customer in street name, the broker must—

(i) Obtain once with respect to each account the certifications described in § 31.3406(d)-2(a) and § 31.3406(d)-1(b)(3) and (c)(2) from the payee (relating to certification regarding payee underreporting and taxpayer identification number, respectively);

(ii) Furnish the payee's taxpayer identification number to the payor; and

(iii) Notify the payor to impose withholding if the payee fails to make either of the required certifications to the broker or if the broker has been notified by the Internal Revenue Service before the acquisition of the instrument that the payee is subject to withholding due to notified payee underreporting under section 3406(a)(1)(C) or that the payee is subject to withholding because the payee's taxpayer identification number is incorrect under section 3406(a)(1)(B) (as described in § 31.3406(d)-5).

(2) *Additional requirements.* The broker must give the information required by paragraphs (a)(1)(ii) and (iii) of this section to the payor with the transfer instructions for the acquisition (including account registration instructions transmitted by a broker in the case of acquisitions of shares in a mutual fund). A notice including the information described in paragraph (b)(1) of this section fulfills the broker's requirement to give notice to the payor. Once the broker transmits the transfer instructions containing the information required by this section, the broker has no further responsibility to

obtain a missing taxpayer identification number or missing certification or to provide additional notices to the payee or payor with respect to the acquisition of the instrument. Upon receiving the notice from a broker, the payor must impose withholding on the account pursuant to § 31.3406(a)-1.

(3) *Transactions entered into through a brokerage account that is not a post-1983 brokerage account.* If a broker acquires readily tradable instruments for a payee through an account (with the broker) that is not a post-1983 brokerage account (as defined in § 31.3406(d)-1(c)(1)), and the broker is not the payor of the instruments, the broker must furnish the payee's taxpayer identification number to the payor. In addition, if the broker has been notified by the Internal Revenue Service that the payee is subject to withholding under section 3406 either because of an incorrect taxpayer identification number or due to notified payee underreporting as described in section 3406(a)(1)(B) or (C), respectively, the broker must notify the payor of the instrument to impose withholding with respect to that payee and transmit the information in the manner described in this paragraph (a). After a payor receives a notice from a broker pursuant to section 3406(d)(2)(B) and this paragraph (a), the payor must impose withholding on any accounts of the payee paying reportable interest or dividends as defined in section 3406(b)(2) in accordance with § 31.3406(a)-1.

(4) *Payor must notify payee—*(i) *Failure to provide certifications.* If a payor is notified by a broker, as required in paragraph (a)(1) of this section, that a payee is subject to withholding because the payee failed to provide the certifications, as described in § 31.3406(d)-2(a) and § 31.3406(d)-1(b)(3) and (c)(2), and the payor has not received the certifications from the payee, then the payor must notify the payee that withholding has started (or will start) no later than 15 days after the payor makes the first payment to the payee that is subject to withholding under section 3406. A notice that contains the information described in paragraph (b)(2) of this section satisfies the payor's requirement to give notice to the payee. If the broker notifies the payor that the